Community Development Capital Initiative (CDCI)
FAQs for Credit Unions
Updated May 6, 2010

1. **What is the process for applying to the new program?**
A: A low income credit union (LICU) that is a Community Development Financial Institution (CDFI) or has submitted an application to the CDFI Fund to become certified must submit a funding application to the National Credit Union Administration (NCUA). The application deadline is April 30, 2010. The application is available on the U.S. Department of the Treasury's program website at www.FinancialStability.gov. A link to this website is also available on NCUAs website at http://www.ncua.gov/Resources/CreditUnionDevelopment/index.aspx.

2. **If a state credit union does not qualify for the NCUA low income designation, but the particular state has its own low income designation that is easier to qualify for than NCUA's criteria, and the credit union qualified and is designated as low income under the state's rules, can they still apply for the Treasury funds even though they don't meet or have NCUA's low income designation (assuming they can get CDFI certified)?**
A: The U.S. Department of the Treasury's (Treasury's) CDCI term sheet requires that the credit union have a low-income designation pursuant to 12 C.F.R. 701.34. The credit union must meet NCUA's standards for low-income designation under 12 C.F.R. 701.34. In other words, if the credit union meets the qualifications for a state designation but not NCUA's threshold, it cannot apply.

3. **Where do I submit my credit union's application?**
A: All credit unions must submit their application to the NCUA. Applications may be submitted via email at LICUCapital@ncua.gov or by facsimile at (703) 518-6676.

4. **Does my credit union have to submit a capital plan?**
A: Yes. All credit unions must submit a Secondary Capital Plan in accordance with NCUA Rules and Regulations 701.34(b)(1).

5. **Will my credit union be disqualified if its Secondary Capital Plan is not ready to submit by the April 30 application deadline?**
A: No. Applicants have until May 10, 2010, to submit a Secondary Capital Plan. Credit unions are encouraged to submit the Secondary Capital Plan with the funding application, if possible.

6. **Can LICUs receive technical assistance grants from NCUA to help them rapidly develop a Secondary Capital Plan?**
A: Yes. NCUA will offer technical assistance grants to assist CDCI applicants in developing a Secondary Capital Plan. The deadline to submit an application for such a grant is April 16,

2010. For additional information, refer to http://www.ncua.gov/Resources/CreditUnionDevelopment/Finance.aspx.

7. **How will I know whether my credit union is determined to be "viable" for the purpose of CDCI funding?**
A: For the purpose of determining viability under the program and making a recommendation as to a credit union's program eligibility and funding, the following performance indicators and parameters will be considered, but not exclusively:

| **Performance Indicator** | **Parameter** |
|---|---|
| CAMEL Composite and Management Component rating | 1, 2, or 3 |
| Net Worth classification per Part 702 of NCUA Rules and Regulations (Net Worth/Total Assets) | *"Adequately capitalized"** |
| Level of net member business loans for construction and development (Net member business loans for construction and development / Net Worth) | ≤ 15% |

* "*Marginally capitalized*" for "new" credit unions per NCUA Rules and Regulations 702 Subpart C. A "new" credit union is one that has been in operation for less than 10 years and has total assets of less than $10 million.

To assist LICUs that are certified as CDFIs, NCUA will send a notice advising such LICUs whether preliminary review of available data indicates that matching funds are required to receive CDCI funding. If your CDFI-certified LICU does not receive such notice by March 22, 2010, contact the NCUA at LICUCapital@ncua.gov.

8. **How long will it take to receive funding?**
A: The NCUA and the Treasury will process applications on a rolling basis. Factors that will influence the processing time are how long the LICU takes to submit its Secondary Capital Plan, the completeness of the Secondary Capital Plan, and how long a LICU takes to raise matching funds, if required to do so.

9. **Will participation in the CDCI affect a LICU's ability to apply to NCUA for the Community Development Revolving Loan Fund for loans or grants?**
A: No, participation in the CDCI program will not preclude a LICU from applying to the Community Development Revolving Loan Fund.

10. **How can I tell whether my credit union must raise matching funds in order to receive CDCI funding?**
A: LICUs that are certified as CDFIs will receive notice from the NCUA advising whether the preliminary review of available data indicates that matching funds are required to receive CDCI funding. If your CDFI-certified LICU does not receive such notice by March 22, 2010, contact the NCUA at LICUCapital@ncua.gov.

11. **My credit union received a notice from NCUA stating that we need to raise matching funds to participate in the program. How much match is required? What if we believe our credit union should not be required to obtain match?**
    A: A LICU that is required to obtain matching funds must match the amount of funding it receives from Treasury at a minimum ratio of 1:1.

    If you believe your credit union should not be required to obtain matching funds, you must provide support in your application that mitigates the need for match. The support must demonstrate that the LICU meets the performance parameter(s) in question. If NCUA determines that the LICU meets the performance parameter(s) in question, NCUA will not request the LICU obtain matching funds as part of the application process. In all cases, Treasury will determine whether the credit union applicant will receive funding and whether matching funds are required, as part of its underwriting process.

12. **My credit union received a notice from NCUA stating that we need to raise matching funds to participate in the program. The notice cited the credit union's high level of non-performing loans as the reason for the match requirement. How can my credit union demonstrate that the level of non-performing loans is not an issue?**
    A: For the purpose of the CDCI, NCUA will use an Adjusted Net Worth Ratio to determine which LICUs require matching funds. The calculation of this ratio is:

    ((Net Worth + Allowance for Loan Losses) - (Total Delinquency + Other Real Estate Owned)) ÷ Total Assets

    Following are the parameters for determining the match requirement with respect to this ratio:

    - Greater-than 4%: no match required
    - 2% to 4%: match required
    - Less-than 2%: not qualified to participate

13. **Can a credit union invest secondary capital into a low income credit union (for the purpose of raising matching funds)?**
    A: Yes, under certain conditions a credit union can invest in secondary capital at a LICU as follows:

    a. Natural-person federal credit unions (FCUs): Natural-person FCUs may invest in secondary capital accounts at LICUs, whether the LICU is federally or state chartered. 12 U.S.C. § 1757(5) & (7). Such investments must be approved by the board of directors, must not exceed 25 percent of the investor's paid-in and unimpaired capital and surplus, and cannot have a maturity of more than 15 years. *Id.* In addition to these limitations, a federal credit union must also comply with other applicable provisions and regulations, including 12 C.F.R. § 703.6 (requiring federal credit unions to conduct and document a credit analysis on an investment) and § 703.10 (requiring federal credit unions to prepare a quarterly written report to properly monitor non-security investments).

b. Federally-insured or privately-insured state-chartered credit unions: whether state-chartered credit unions can invest in secondary capital accounts at LICUs must be determined by reference to the laws and regulations of the state in which the credit union is chartered.
c. Corporate credit unions (all are currently federally-insured and subject to NCUA's corporate rule): Corporate credit unions may make unsecured loans to members not to exceed 50 percent of the recipient's capital. § 704.7(c). Thus, corporates may invest in secondary capital accounts unless they are chartered under a state law that prevents such investments. Long-term loans to non-members are generally not permitted for corporates. § 704.7(d).

Although legally permissible, NCUA cautions that secondary capital swaps between two or more applicant LICUs that each require matching secondary capital for CDCI qualification could be problematic for purposes of the CDCI underwriting standards. The subordinate nature of secondary capital investments in another LICU that was not considered by Treasury/NCUA to be viable without the match would raise questions about the viability of any investing LICU that also requires matching secondary capital to be eligible.

**14. If my credit union obtains matching funds will this ensure a recommendation for funding?**

A: No. The ability to obtain matching funds, by itself, is not an assurance of funding.

**15. If a LICU has secondary capital it obtained <u>prior to</u> participating in the CDCI and is subsequently liquidated, is the payout shared on a pro-rata basis, or can Treasury demand ex-post that the existing secondary capital note-holder be totally subordinated? Likewise, if a LICU obtains secondary capital <u>after and unrelated to</u> participating in the CDCI and is subsequently liquidated, will that note also be totally subordinated to the Treasury's CDCI note or will a payout be shared?**

A: If no match is required, the CDCI funds will suffer losses pro-rata with all other secondary capital on deposit at the time of a loss, regardless of whether the other secondary capital was accepted before or after the CDCI funds were accepted.

It becomes more complicated when matching secondary capital is involved under the CDCI. These situations were contemplated in the interim final passed by NCUA in February. The new rule states as follows in 12 C.F.R. § 701.34(b)(7) (the red language is the relevant language that what was added by the interim final):

> (7) Availability to cover losses. Funds deposited into a secondary capital account, including interest accrued and paid into the secondary capital account, must be available to cover operating losses realized by the LICU that exceed its net available reserves (exclusive of secondary capital and allowance accounts for loan and lease losses), and to the extent funds are so used, the LICU must not restore or replenish the account under any circumstances. The LICU may, in lieu of paying interest into the secondary capital account, pay accrued interest directly to the investor or into a separate account from which the secondary capital investor may make withdrawals. Losses must be distributed pro-rata among all secondary capital accounts held by the LICU at the time the losses are realized. In instances where a LICU accepts secondary capital from the United States Government or any of its subdivisions under the Community Development Capital Program of 2010 ("CDCP secondary capital") and matching funds are required under the Program and are on deposit in the form of secondary capital at the time a loss is realized, a LICU must apply either of the following pro-rata loss distribution procedures to the CDCP secondary capital and its matching secondary capital with respect to the loss:
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> (i) If not inconsistent with any agreements governing other secondary capital on deposit at the time a loss is realized, the CDC secondary capital may be excluded from the calculation of the pro-rata loss distribution until all of its matching secondary capital has been depleted or properly redeemed, thereby causing the CDC secondary capital to be held as senior to all other secondary capital until its matching secondary capital is exhausted. The CDCP secondary capital should be included in the calculation of the pro-rata loss distribution and is available to cover the loss only after all of its matching secondary capital has been depleted or properly redeemed.
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> (ii) Regardless of any agreements applicable to other secondary capital, the CDCP secondary capital and its matching secondary capital may be considered a single account for purposes of determining a pro-rata share of the loss and the amount determined as the pro-rata share for the combined account must first be applied to the matching secondary capital account, thereby causing the CDCP secondary capital to be held as senior to its matching secondary capital. The CDCP secondary capital is available to cover the loss only after all of its matching secondary capital has been depleted or properly redeemed.

Under either option, once secondary capital accepted as a match to CDCI funds has been depleted, any seniority status the CDCI funds had in relation to any "other secondary capital" is removed.

To satisfy a matching investor under the regulations, a LICU has at least a couple of options:

1) At the time it accepts the CDCI funds and their match, it can designate in the secondary capital agreement with the matching investor which method it will use in calculating a loss. If it chooses option (i), it will need to ensure that any existing agreements and any agreements governing other secondary capital that is later accepted while the match remains on deposit are consistent with this choice.
2) In lieu of designating its choice of methods in the secondary capital agreement with the match investor, a LICU might state in the agreement something like the following: "the LICU will treat the matching secondary capital in the most favorable way possible under NCUA regulations and agreements governing other pre-existing secondary capital." That way, if the LICU cannot initially designate option (i) because of other agreements, it can still revert to that option for losses that occur after secondary capital governed by other restrictive agreements is redeemed.
3) In some circumstances, the matching secondary capital investor simply defer to the credit union to make the choice under the regulations by not specifically addressing the subject in the secondary capital agreement.

**16. NCUA notified my credit union that its CAMEL Composite and/or Management Component rating was of concern. How can my credit union demonstrate that these concerns have been resolved?**

A: A LICU with a CAMEL Composite or Management Component rating of "4" or "5" will not meet the standard to receive a positive funding recommendation from NCUA. To receive a positive funding recommendation, assuming all other evaluation criteria are met, such a LICU would need to receive an upgrade in rating(s). In order to accommodate the tight program timeframes, any such upgrade must be formally documented via NCUA exam procedures. Generally, such an upgrade would need to occur by June 2010.

**17. What post-award reporting requirements are there under the CDCI?**

A: Credit unions that receive funding under the CDCI can expect to report to Treasury on how the funds were deployed. Additionally, the agreement that the credit union will sign with Treasury may contain additional requirements and conditions. The Emergency Economic Stabilization Act (EESA) contains provisions that govern executive compensation and corporate governance under the CDCI. For additional information and requirements, refer to the General Printing Office's GPO Access website at http://ecfr.gpoaccess.gov/cgi/t/text/textidx?c=ecfr&tpl=/ecfrbrowse/Title31/31cfr30_main_02.tpl.

The credit union's management is solely responsible for reviewing all program documents and/or obtaining legal counsel before signing any program documents/agreements.

**18. I still have questions, which agency should I direct them to?**
A: All credit union inquiries about the CDCI should be directed to NCUA at LICUCapital@ncua.gov.